

David A. Weibel, OSB# 082316
dweibel@bwmlegal.com
Bishop, White, Marshall & Weibel, P.S.
720 Olive Way, Suite 1201
Seattle, WA 98101-1803
Telephone – 206/622-5306
Facsimile – 206/622-0354

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

DENISE COOK and KENNETH COOK

Plaintiffs,

v.

BENEFICIAL OREGON INC., a Delaware
Corporation; SHAPIRO & SUTHERLAND,
LLC, a Washington State LLC

Defendants.

Case No. 10-cv-03121-PA

CONCISE STATEMENT OF FACTS
BY DEFENDANT BENEFICIAL
OREGON INC.

Pursuant to LR 56.1 Defendant Beneficial Oregon Inc., offer the following Concise Statement of Facts in support of its Motion for Summary Judgment.

The Plaintiffs' Mortgage

1. Beneficial Oregon Inc. (incorrectly identified by Plaintiffs as Beneficial HSBC Mortgage Corporation) is an indirectly wholly owned subsidiary of HSBC Finance Corporation (f/k/a Household International, Inc.). (Johnston Decl., ¶ 2).

2. On or about March 8, 2007, the Cooks executed a Loan Agreement with Beneficial Oregon for a loan in the amount of \$210,720.35, bearing interest at an initial rate of

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8.550% per annum. If the Cooks made their monthly payments timely, this initial rate would *decrease* by 0.30% beginning the 13th month and every 12 months thereafter, up to a maximum of 10 reductions. (Johnston Decl., ¶ 3).

3. The loan was secured by a deed of trust dated March 8, 2007, and recorded on March 12, 2007, under Josephine County Official Record No. 2007-004995. (Johnston Decl., ¶ 4).

4. The Deed of Trust encumbers that certain real property commonly known as 300 Newt Gulch Road, Wilderville OR 97543. Beneficial Oregon is named beneficiary of said Deed of Trust, and Regional Trustee Services was named Trustee. (Johnston Decl., Ex. B).

5. The terms of the Deed of Trust granted the Trustee the power to foreclosure upon the Property if Plaintiff failed to repay his loan under the terms of the Note. The Deed of Trust reads, in relevant part:

TO SECURE to Lender the repayment of [their mortgage],
Borrower in consideration of the indebtedness herein...
irrevocably grants and conveys to Trustee, in trust, with power of
sale... [the Property].

(Johnston Decl., Ex. B).

6. The Cook's loan is *not* a home equity line of credit. Instead, it is a fixed-rate, 30 year mortgage. (Johnston Decl., ¶ 5).

7. Neither the loan or deed of trust have been sold or assigned to any other entity after origination. (Johnston Decl., ¶ 5).

8. From the date of origination to the present the loan has been and still is held, owned and serviced by Beneficial Oregon. (Johnston Decl., ¶ 5).

9. As reflected in the HUD-1 Settlement Statement \$197,948.94 of the loan proceeds went to pay off prior existing secured and unsecured creditors of the Cooks:

CAP 1 BANK	\$636.00
FST PREMIE	\$273.00
GEMB/JCP	\$243.00
HOMEEQ	\$147,354.34
HSBC NV	\$865.00
HSBC NV	\$1,022.00
HSBC GOTTS	\$586.00
MATCO FINC	\$713.00
SOANB/FBUG	\$372.00
WELLSFAFI	\$10,208.00
ACCT x9928M	\$35,676.60
TOTAL	\$197,948.94
CASH TO COOK	\$779.76

(Johnston Decl., ¶ 6).

The Foreclosure

10. In or about September, 2009, the Cooks defaulted on their loan with Beneficial Oregon by failing to make the required monthly payment when due. (Johnston Decl., ¶ 7).

11. On or about July 20, 2010, Beneficial Oregon executed an Appointment of Successor Trustee, naming Shapiro & Sutherland, LLC as the new trustee. The Appointment of

Successor Trustee was duly recorded on July 27, 2010 under Josephine County Official Record No. 2011-000455. (Johnston Decl., ¶ 7).

12. On July 28, 2010, Shapiro recorded a Notice of Default and Intent to Sell, with a Trustee's Sale date of December 2, 2010. (Shapiro Decl., ¶ 5).

13. Shapiro also served the required "Danger Notice" by certified and first class mail on July 28, 2010. (Shapiro Decl., ¶ 6).

14. Shapiro also served the Notice of Sale to Plaintiffs by certified and first class mail on July 30, 2010. (Shapiro Decl., ¶ 6).

15. Process servers acting on Shapiro's behalf attempted to personally serve the occupants of the Property twice. They posted the Notice of Sale at the Property on July 31, 2010, and personally served Keneth Cook on August 3, 2010. (Shapiro Decl., ¶ 7).

16. On December 2, 2010, Shapiro postponed the Trustee's sale by public proclamation to December 17, 2010. (Shapiro Decl., ¶ 8).

17. Richard Magatelli, Shapiro's agent, appeared on December 2 and announced that the sale would be continued. (Magatelli Decl., ¶ 1).

18. Shapiro also postponed the December 17, 2010, sale date to January 5, 2011. (Shapiro Decl., ¶ 8).

19. On December 17, Magatelli appeared again and publically announced the postponement. (Magatelli Decl., ¶ 2).

20. The Trustee's Sale was held on January 5, 2011. Beneficial of Oregon was the successful bidder. (Shapiro Decl., ¶ 9, Magatelli Decl., ¶ 3).

21. As a result of Beneficial of Oregon's successful bid, Shapiro delivered the Trustee's Deed conveying title to Property to Beneficial of Oregon. The Trustee's Deed was duly recorded on January 12, 2011. (Shapiro Decl., ¶ 9).

Dated this 8th day of March, 2011.

/s/ David A. Weibel

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